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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			MISLEH, JUSTIN P	
			ART UNIT	PAPER NUMBER
			2622	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/768,629	HYODO ET AL.
	Examiner Justin P. Misleh	Art Unit 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 07 August 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2 and 5 - 22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 6 - 17 is/are allowed.
- 6) Claim(s) 2, 5, and 18 - 22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 January 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed August 7, 2006 have been fully considered but they are not persuasive.
2. Applicant argues, “[The] present invention, as recited in claim 6, requires storing more than one composition assist frame associated with each of the plurality of shooting modes ... [further], claim 6 requires extracting device that extracts more than one composition assist frame that can be selected from the plurality of composition assist frames according to the shooting mode selected.”

Applicant additionally argues, “It is further respectfully submitted that claim 18 includes elements similar to those discussed above with regard to claim 6 and thus claim 18, together with claims dependent thereon are allowable for the reasons set forth above with regard to claim 6.”

Finally, Applicant argues, “Although the Examiner rejected these claims [19 and 20] asserting the claims are obvious in view of the teachings of Windle and Silverbrook, the Examiner relies on those teachings of Windle as argued above regarding claim 6.”

3. However, the Examiner respectfully disagrees with Applicant's position.

Claim 18 actually recites, therein, “extracting composition assist frames associated with the selected shooting mode from a plurality of composition assist frames.” Claim 19 actually recites, therein, “extracting composition assist frames associated with the determined direction of the digital camera from a plurality of composition assist frames.” Claim 20 actually recites, therein, “extracting composition assist frames that can be selected from the plurality of

composition assist frames associated with the determined shooting mode and the determined direction of the digital camera.”

The recited limitations from Claims 18 – 20 are not same as “an extracting device that extracts more than one composition assist frame that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device” or “an extracting device that extracts more than one composition assist frame that can be selected from the plurality of composition assist frames according to the widthwise or length wise direction of the camera determined by the direction determining device,” as respectively recited in currently amended Claims 6 and 11.

Claims 18 – 20 simply do not require, prior to photographing an image, providing an image composition period wherein during the image composition period: a) a plurality of composition assist frames are extracted per selected shooting mode; and b) a single composition assist frame is selected from among the plurality of extracted composition assist frames. Accordingly, Applicant’s Claims 18 – 20 do not overcome the cited rejections in view of Windle et al.

As previously indicated (see Non-Final Office Action mailed Feb. 8, 2006), Windle et al. disclose a plurality of composition assist frames wherein each composition assist frame respectively corresponds to each of a plurality of shooting modes (i.e., shooting modes and composition assist frames are in one-to-one correspondence). In each individual shooting mode (Landscape, Panoramic, and Portrait), the extracting device extracts a single composition assist frame according to the shooting mode selected. However, when the camera is operated and when more than one shooting mode has been selected, as respectively shown in figures 4 – 7, the

extracting device has effectively extracted more than one composition assist frame.

Furthermore, as previously stated (see Final Office Action, pages 3 and 4), once a shooting mode is selected and the composition assist frame associated with that particular shooting mode is extracted, the composition assist frame is effectively selected. Windle et al., as asserted by Applicant, clearly teaches that for the landscape, the pan shot, and the portrait templates as disclosed in Fig. 3, only one composition assist frame is associated with each selection. Therefore, when all three shooting modes have been selected, the extracting device has effectively extracted more than one composition assist frame and, accordingly, the composition assist frame selecting device has effectively selected the corresponding composition assist frame from the ones extracted by the extracting device.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 2, 18, 21, and 22** are rejected under 35 U.S.C. 102(e) as being anticipated by Windle (US 6 606 117 B1).

The following rejections are made in view of Examiner's response to arguments above, which are hereby fully incorporated into these rejections.

6. For **Claim 18**, Windle discloses, as shown in figures 2 – 7 and as stated in columns 4 (lines 38 – 43), 5 (lines 42 – 49), 6 (lines 1 – 37 and 49 – 58), 7 (lines 22 – 32 and 44 – 67), and 8 (lines 23 – 28), a digital camera (202) and a corresponding method of operating thereof comprising:

a shooting mode selecting device (205) that selects a shooting mode from a plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17);

an imaging device (202) that images a subject (201) in the shooting mode selected by the shooting mode selecting device (205) and outputs image signals;

an image displaying device (203) that displays the image according to the image signals outputted from the imaging device (see figures 2 – 7);

a storing device (103/108; see figure 1) that stores data of a plurality of composition assist frames (see column 4, lines 38 – 43);

an extracting device (104; see figure 1 and column 4, lines 38 – 43) that extracts composition assist frames (Landscape template, Panoramic template, Portrait template) that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device (see figure 3 and see column 6, lines 9 – 17);

a composition assist frame selecting device (104; see figure 1 and column 4, lines 38 – 43) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and

a composition assist frame displaying device (203) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

As recited in the Non-Final Office Action (mailed Feb. 8, 2006), “The Examiner acknowledges that Windle et al. does not disclose a plurality of composition assist frames PER shooting mode and Windle et al. also does not disclose that once a shooting mode is selected the composition assist frame selecting device can select from among a plurality of composition assist frames extracted in response to the selected shooting mode; however, as previously stated, the claim language is written broadly enough to allow for the Examiner’s characterizations of the claim language and prior art.”

However, Applicant’s amendments to the independent claims simply do not require, prior to photographing an image, providing an image composition period wherein during the image composition period: a) a plurality of composition assist frames are extracted per selected shooting mode; and b) a single composition assist frame is selected from among the plurality of extracted composition assist frames. Therefore, Applicant’s amended claims do not overcome the cited rejections in view of Windle et al.

7. As for **Claim 2**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

8. As for **Claim 21**, Windle discloses a one-to-one correspondence between the composition assist frames and the selected shooting mode. Furthermore, Windle discloses a plurality of shooting modes and a plurality of composition assist frames.

9. As for **Claim 22**, Windle discloses, as stated in column 6 (lines 26 – 37), that a template includes a number elements, “including a positioning indicator 401, a line up marker 404, and a center marker 405.” Windle goes on further by stating, “these elements, although visible on the LCD 203 are not captured as part of any image.” Finally, Windle makes it clear that “depending on the implementation, the elements can appear on a portion of the display in which the image is not displayed, or can be composited over the image.” Furthermore, Windle indicates that each template is actually a frame that overlays a captured preview images to assist a user in capturing a final image. Windle also notes that the elements can circumscribe an area within the display – i.e. “the elements can appear on a portion of the display in which the image is not displayed.”

Therefore, Windle discloses wherein each of composition assist frames circumscribes an area with the display.

#### *Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claim 5, 19, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Windle in view of Silverbrook (US 6 597 817 B1).

The following rejections are made in view of Examiner's response to arguments above, which are hereby fully incorporated into these rejections.

12. For **Claim 19**, Windle discloses, as shown in figures 2 – 7 and as stated in columns 4 (lines 38 – 43), 5 (lines 42 – 49), 6 (lines 1 – 37 and 49 – 58), 7 (lines 22 – 32 and 44 – 67), and 8 (lines 23 – 28), a digital camera (202) and a corresponding method of operating thereof comprising:

an imaging device (202) that images a subject (201) and outputs image signals;

an image displaying device (203) that displays the image according to the image signals outputted from the imaging device (see figures 2 – 7); and

a storing device (103/108; see figure 1) that stores data of a plurality of composition assist frames (see column 4, lines 38 – 43);

an extracting device (104; see figure 1 and column 4, lines 38 – 43) that extracts composition assist frames (Landscape template, Panoramic template, Portrait template) that can be selected from the plurality of composition assist frames;

a composition assist frame selecting device (104; see figure 1 and column 4, lines 38 – 43) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and

a composition assist frame displaying device (203) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

As recited in the Final Office Action (mailed August 11, 2005), "The Examiner acknowledges that Windle et al. does not disclose a plurality of composition assist frames PER

shooting mode and Windle et al. also does not disclose that once a shooting mode is selected the composition assist frame selecting device can select from among a plurality of composition assist frames extracted in response to the selected shooting mode; however, as previously stated, the claim language is written broadly enough to allow for the Examiner's characterizations of the claim language and prior art."

However, Applicant's amendments to the independent claims simply do not require, prior to photographing an image, providing an image composition period wherein during the image composition period: a) a plurality of composition assist frames are extracted per selected shooting mode; and b) a single composition assist frame is selected from among the plurality of extracted composition assist frames. Therefore, Applicant's amended claims do not overcome the cited rejections in view of Windle et al.

In summary, Windle clearly teaches that for the landscape, the pan shot, and the portrait modes as disclosed in Fig. 3, only one composition assist frame is associated with each selection. However, Windle does not disclose a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

In analogous art, Silverbrook also discloses a digital camera, a corresponding method of operation, and a displayed digital image with overlay. More specifically, Silverbrook discloses, as shown in figures 1 and 2 and as stated in column 2 (line 50) – column 3 (line 60), a digital camera (artcam) with an orientation sensor (46) for sensing the orientation of the digital camera and determining whether a captured image was captured in a portrait mode or landscape mode such that the overlaying of information (e.g. date, time, text) relevant to the captured image can be displayed together with the image in the correct orientation. Therefore, Silverbrook discloses

a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

As stated in column 2 (lines 7 – 11) of Silverbrook, at the time the invention was made, one with ordinary skill in the art would have been motivated to include the direction determining teachings of Silverbrook in the digital camera disclosed by the Windle for the advantage of reducing the significant printer post processing of captured images.

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a direction determining device that determines whether the digital camera is held widthwise or lengthwise and an extracting device that extracts composition assist frames that can be selected from the plurality of composition assist frames according to the direction of the camera determined by the direction determining device.

13. For **Claim 20**, Windle discloses, as shown in figures 2 – 7 and as stated in columns 4 (lines 38 – 43), 5 (lines 42 – 49), 6 (lines 1 – 37 and 49 – 58), 7 (lines 22 – 32 and 44 – 67), and 8 (lines 23 – 28), a digital camera (202) and a corresponding method of operating thereof comprising:

a shooting mode selecting device (205) that selects a shooting mode from a plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17);

an imaging device (202) that images a subject (201) and outputs image signals; an image displaying device (203) that displays the image according to the image signals outputted from the imaging device (see figures 2 – 7); and

a storing device (103/108; see figure 1) that stores data of a plurality of composition assist frames (see column 4, lines 38 – 43);  
an extracting device (104; see figure 1 and column 4, lines 38 – 43) that extracts composition assist frames (Landscape template, Panoramic template, Portrait template) that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device (see figure 3 and see column 6, lines 9 – 17);  
a composition assist frame selecting device (104; see figure 1 and column 4, lines 38 – 43) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and  
a composition assist frame displaying device (203) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

As recited in the Final Office Action (mailed August 11, 2005), “The Examiner acknowledges that Windle et al. does not disclose a plurality of composition assist frames PER shooting mode and Windle et al. also does not disclose that once a shooting mode is selected the composition assist frame selecting device can select from among a plurality of composition assist frames extracted in response to the selected shooting mode; however, as previously stated, the claim language is written broadly enough to allow for the Examiner’s characterizations of the claim language and prior art.”

However, Applicant’s amendments to the independent claims simply do not require, prior to photographing an image, providing an image composition period wherein during the image composition period: a) a plurality of composition assist frames are extracted per selected

shooting mode; and b) a single composition assist frame is selected from among the plurality of extracted composition assist frames. Therefore, Applicant's amended claims do not overcome the cited rejections in view of Windle et al.

In summary, Windle clearly teaches that for the landscape, the pan shot, and the portrait modes as disclosed in Fig. 3, only one composition assist frame is associated with each selection. However, Windle does not disclose a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

In analogous art, Silverbrook also discloses a digital camera, a corresponding method of operation, and a displayed digital image with overlay. More specifically, Silverbrook discloses, as shown in figures 1 and 2 and as stated in column 2 (line 50) – column 3 (line 60), a digital camera (artcam) with an orientation sensor (46) for sensing the orientation of the digital camera and determining whether a captured image was captured in a portrait mode or landscape mode such that the overlaying of information (e.g. date, time, text) relevant to the captured image can be displayed together with the image in the correct orientation. Therefore, Silverbrook discloses a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

As stated in column 2 (lines 7 – 11) of Silverbrook, at the time the invention was made, one with ordinary skill in the art would have been motivated to include the direction determining teachings of Silverbrook in the digital camera disclosed by the Windle for the advantage of reducing the significant printer post processing of captured images.

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have also included a direction determining device that determines

whether the digital camera is held widthwise or lengthwise such that the extracting device that extracts composition assist frames that can be selected from the plurality of composition assist frames according, in addition to, the shooting mode selected, the direction of the camera determined by the direction determining device.

14. As for **Claim 5**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

#### *Allowable Subject Matter*

15. **Claims 6 – 17** are allowed.

16. The following is a statement of reasons for the indication of allowable subject matter:  
The closest prior art teaches a plurality of composition assist frames wherein each composition assist frame respectively corresponds to each of a plurality of shooting modes (i.e., shooting modes and composition assist frames are in one-to-one correspondence). In each individual shooting mode, an extracting device extracts a single composition assist frame according to the shooting mode selected. However, when the camera is operated and when more than one shooting mode has been selected, the extracting device has effectively extracted more than one composition assist frame. Furthermore, once a shooting mode is selected and the composition assist frame associated with that particular shooting mode is extracted, the

composition assist frame is effectively selected. The closest prior art also teaches that for a landscape, a pan shot, and a portrait template, only one composition assist frame is associated with each selection.

However, the closest prior art does not teach or fairly suggest, prior to photographing an image, providing an image composition period wherein during the image composition period: a) a plurality of composition assist frames are extracted per selected shooting mode or per determined camera direction; and b) a single composition assist frame is selected from among the plurality of extracted composition assist frames.

### ***Conclusion***

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Vivek Srivastava can be reached on 571.272.7304. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM  
October 25, 2006



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